

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

PAMELA D. GIDDINGS,

Plaintiff,

v.

No. CV 18-891 CG

ANDREW SAUL,
Commissioner of the Social Security
Administration,

Defendant.

ORDER FOR AMENDED FEE AFFIDAVIT

THIS MATTER is before the Court on Plaintiff Pamela D. Giddings' *Motion to Reconsider Order Granting in Part Attorney Fees Pursuant to 42 U.S.C. 406(b)(1)(A)* (Doc. 27) (the "Motion for Reconsideration"), (Doc. 28), filed July 27, 2020. In her Motion for Reconsideration, counsel argues the Court's Order "is contrary to controlling authority from the United States Supreme Court," because it did not award her the fee she requested. (Doc. 28 at 1-2). It is counsel's burden to demonstrate the reasonableness of her requested fee. *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002). A court may require the claimant's attorney to submit a record of the hours spent representing the claimant and a statement of the lawyer's normal hourly billing rate for non-contingency fee cases. *Id.* at 808.

The Court reduced counsel's fee award to align with the calculations presented in her fee affidavit. See (Doc. 27 at 4) (explaining counsel documented 37.15 hours in representing Ms. Giddings before the Court, at a rate of \$202 an hour). It is within the Court's discretion to reject counsel's requested fee, for a variety of factors, including the time spent litigating the case and the hourly rate she ordinarily charges. If counsel is

requesting the Court amend its award, counsel is directed to submit an amended affidavit, reflecting the time spent litigating this case, and the hourly rate she charged to reach a \$10,000 overall award. The Court will not accept counsel's blanket request to award her \$10,000 without first demonstrating how she reached such a figure, and why it should be deemed reasonable by the Court upon independent review.

IT IS THEREFORE ORDERED that counsel submit an amended affidavit to support her Motion for Reconsideration no later than **August 4, 2020**. Defendant Commissioner may file a response to Plaintiff's Motion for Reconsideration no later than **August 7, 2020**.

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE